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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/457,952	12/09/1999	GUILLAUME SEBIRE	874.0002USU	8252

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HARRINGTON & SMITH, LLP
4 RESEARCH DRIVE
SHELTON, CT 06484-6212

EXAMINER

NGUYEN, DAVID Q

ART UNIT PAPER NUMBER

2617

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/457,952

Applicant(s)

SEBIRE ET AL.

Examiner

David Q. Nguyen

Art Unit

2681

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


David Nguyen
JOSEPH FEILD
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 03/13/06 have been fully considered but they are not persuasive.

In response to Applicant's Remarks, on page 2, Applicants argue: "Claims 1, 17 and 19 are independent. The Amendment dated October 17, 2005 changed claim 1 "to replace the steps 'deriving' and 'transmitting' with the step 'wirelessly receiving', so that claim 1 reads only on actions performed in the mobile equipment." (page 6). That Amendment further stated that 'claims 17 and 19 are amended as to form so that the different elements of the network and mobile equipment are set off by indentations.' (page 8). The minor amendments to claims 17 and 19 removed superfluous prepositional phrases and (in claim 19) re-positioned one claim element alongside another related element, so the substance of claims 17 and 19 were not changed by that Amendment. Because the applicant's amendments to the independent claims submitted in the Amendment dated October 17, 2005 did not necessitate the new grounds of rejection.

Examiner disagrees. Applicants have changed the scope of the invention by deleting "deriving an indication of ME speed in the wireless network", "transmitting the speed indication to the ME" and adding "wirelessly receiving at a mobile equipment ME an indication of the ME's speed through a wireless network".

Applicants also argue on page 3: "Jin does not indicate that CDMA power settings, such as FWD_PWR_CTRL, is indicate of link quality". Examiner disagrees because in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., indicate that CDMA power settings, such as FWD_PWR_CTRL) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicants also argue on page 3: "Jin never reports that calculated indication of link quality to the wireless network as in claim 1".

Examiner disagrees because Jin clearly teaches the value of REV_PWR_CTRL is calculated as a function of the SPEED of the mobile unit by means of a look-up table or an analytical expression for generating FWD_PWR_CTRL (see col. 10, lines 19-27). It is apparent that Jin reports that calculated indication of link quality to the wireless network as in claim 1.

Applicants also argue on page 7: "The network of Wan does not determine an indication of signal quality experienced by individual ones of the plurality of ME, and so cannot transmit information that it does not have for an individual ME to receive".

Examiner disagrees. Wan clearly discloses: "determining the speed the mobile unit 106 is traveling through a cell 108 or rate of change of the received signal strength of state 520. The process begins at start state 600. Proceeding to state 605, the mobile unit 106 records the level or quality of the signal received. Because many factors may influence the signal quality each time it is measured, one embodiment averages several measurements of the signal quality detected by the mobile unit 106". It is apparent that Wan teaches determine an indication of signal quality experienced by individual ones of the plurality of ME, and so cannot transmit information that it does not have for an individual ME to receive.

Applicants also argue on page 7: "SMG2 444/99 does NOT disclose a mechanism to use the received indication (of signal quality experienced by individual ones of the plurality of ME) for setting a length of a filtering operation that operates on a sequence of link quality measurement data".

Examiner disagrees because SMG2 444/99 clearly teaches a mechanism to use the received indication (of signal quality experienced by individual ones of the plurality of ME) for setting a length of a filtering operation that operates on a sequence of link quality measurement data (see pages 11-14)..